

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE

School Administrative
Unit #59, et al.

v.

Case No. 09-cv-168-PB

New Hampshire Indemnity
Co., et al.

O R D E R

I cannot determine from the motion to dismiss whether the defendants are contending only that the motion must be granted because the petition fails to allege that the insurance provided was claims-made rather than occurrence-based or whether they are also arguing that the petition fails to sufficiently allege that defendants insured plaintiffs during the relevant period. In either case, the motion is meritless. The former argument fails because the petition need not identify the specific terms of the policies to survive a motion to dismiss. The latter argument fails because the petition sufficiently alleges that insurance was provided by the defendants during the relevant period.

Defendants may file a motion for summary judgment raising these issues again after discovery is completed if plaintiffs cannot establish that insurance was provided by the defendants during the relevant periods or if the undisputed evidence demonstrates that plaintiffs are not entitled to coverage under the insurance provided.

Defendants' motion to dismiss ([Doc. No. 17](#)) is denied.

SO ORDERED.

/s/Paul Barbadoro
Paul Barbadoro
United States District Judge

January 19, 2010

cc: Joshua William Gardner, Esq.
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Michael S. McGrath, Esq.
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